

U.S. ENVIRONMENTAL PROTECTION AGENCY

Fiscal Year 2011

Annual Report to Congress
Pursuant to the
Notification and Federal Employee
Antidiscrimination and Retaliation
Act of 2002

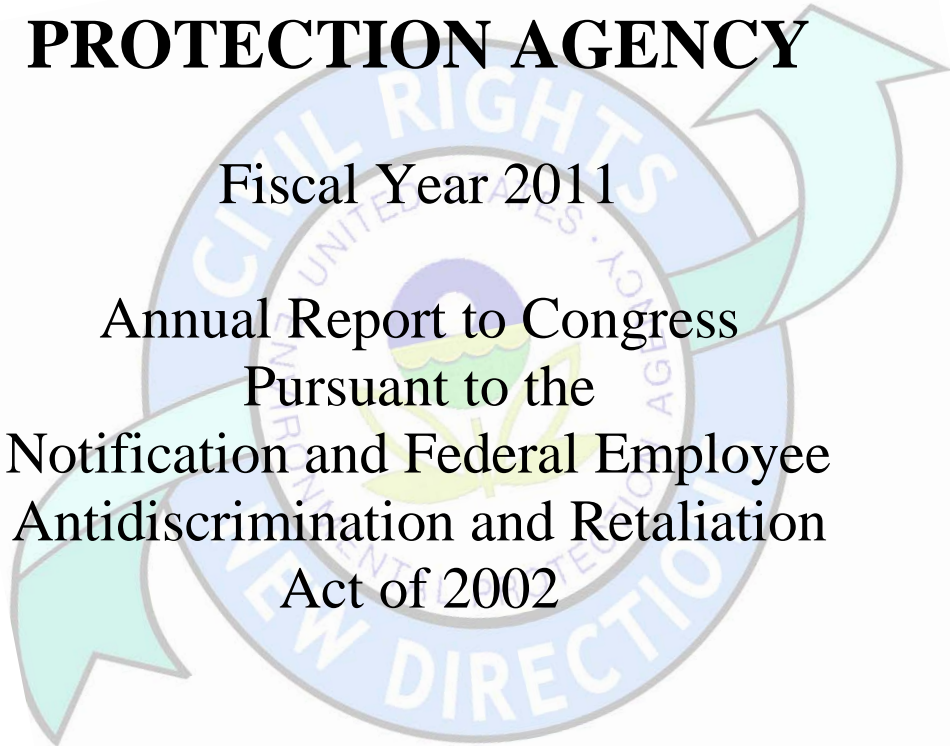


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I. EXECUTIVE SUMMARY

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174. As required, this report includes information related to the number of cases in Federal court pending or resolved in fiscal year (FY) 2011 and, in connection with those cases, their disposition; reimbursement(s) to the Judgment Fund; and the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2011, there were a total of 15 cases pending before Federal courts. Among these cases, there were 15 claims of violation of Title VII; 2 claims of violations of the Rehabilitation Act; 6 claims of violation of the Age Discrimination in Employment Act; and one claim of violation of the Fair Labor Standards Act. Of the 15 cases noted above, one was settled during the reporting period. The settlement involved a total payment of \$225,000, of which \$216,000 was separately designated for the payment of attorney's fees. The settlement amount will be reimbursed to the Judgment Fund.

Of the remaining 14 cases, two were dismissed with prejudice, one was withdrawn with prejudice, one resulted in summary judgment for the Agency being upheld on appeal, one is currently on appeal of a finding for the Agency, and 9 are proceeding at different stages of pretrial litigation.

There were no disciplinary actions taken in connection with any federal case pending or resolved in FY 2011 brought under applicable provisions of federal anti-discrimination laws and/or Whistleblower Protection laws; or for any conduct that was inconsistent with these laws or for conduct that constituted any prohibited personnel practice.

II. BACKGROUND

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," or, as it is more commonly known, the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report the status or disposition of the cases; the amount of money required to be reimbursed to the judgment fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or

committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws; and an analysis of the data collected with respect to trends, causal analysis, and other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into five categories:

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.
- Quarterly an agency must post on its public website summary statistical data pertaining to EEO complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006; final regulations to carry out the notification and training requirements of the Act were published on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The Equal Employment Opportunity Commission (EEOC) published its final regulations to implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared this report based on the provisions of the No FEAR Act in accordance with OPM and EEOC's final regulations.

III. DATA

a. Civil Cases

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report “the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged.”

Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the “number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in

which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved.”

During FY 2011, there were a total of 15 cases pending before Federal courts. Among these cases, there were 15 claims of violation of Title VII; 2 claims of violations of the Rehabilitation Act; 6 claims of violation of the Age Discrimination in Employment Act; and one claim of violation of the Fair Labor Standards Act.

Of the 15 cases noted above, one was settled during the reporting period. Of the remaining 14 cases, two were dismissed with prejudice, one was withdrawn with prejudice, one resulted in summary judgment for the Agency being upheld on appeal, one is currently on appeal of a finding for the Agency, and 9 are proceeding at different stages of pretrial litigation.

b. Reimbursement to the Judgment Fund

During FY 2011, the Agency was required to reimburse the Judgment Fund \$225,000, in connection with the one settled civil case, of which \$216,000 was separately designated for the payment of attorney's fees.

c. Disciplinary Actions (5 C.F.R. § 724.302 (a)(3) & (5))

There were no employees disciplined in FY 2011 in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes prohibited personnel practices.

d. Final Year-End Data Posted Under Section 301(c)(1)(B)

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act is included in Appendix 1.

The final year-end data indicates that during FY 2011, there were 64 new administrative complaints of discrimination filed by 61 employees or applicants for employment. Within the total inventory of 174 complaints, EPA's Office of Civil Rights (OCR) conducted 94 pre-complaint counselings; 21 investigations; and closed 43 cases including 20 final agency decisions, 11 final agency orders, 6 settlements, 4 dismissals and 2 withdrawals. There were no findings of discrimination in FY 2011.

FY 2011 complaint totals can be found in their entirety at Appendix 1 of this report.

e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))

In FY 2009, EPA Administrator Lisa P. Jackson signed a new Agency EEO policy that set forth her vision for an effective EEO program and a workplace free of discrimination, harassment, and reprisal. This Policy can be found in Appendix 3. During FY 2010, she reaffirmed her

commitment to an effective EEO program in a 2010 EEO Policy. This Policy can be found in Appendix 4. The 2010 EPA EEO Policy can be found at Appendix 5.

In the Agency's 2010 NoFEAR Report, we discussed on-going efforts to implement an Anti-Harassment policy. On July 13, 2011, we accomplished this goal when Administrator Jackson signed and the official Agency Anti-Harassment policy, which can be found in Appendix 2 of this report. For the purposes of this policy, unlawful harassment is defined as any unwelcome verbal or physical conduct based on race; color; sex, including pregnancy and gender identity/expression; national origin; religion; age. The Administrator's policy is precedent setting by its inclusion of bases beyond those covered under Title VII, specifically the bases of genetic identity and genetic expression. This policy is exemplary of the Agency's rededicated effort to address and alleviate all manner of discrimination, in all its forms, in the workplace.

All EPA supervisors and management officials are responsible for taking appropriate corrective actions for which they have been delegated authority and for recommending to higher level officials disciplinary action considered appropriate in other cases. EPA's policies and procedures for taking disciplinary action are contained in EPA Order 3110.6B, *Adverse Actions*, EPA Order 3120.1B, *Conduct and Discipline*, EPA Order 3120.2, *Conduct and Discipline Senior Executive Service* and in the applicable collective bargaining agreements. Actions in response to findings of discrimination may range from informal corrective actions such as a written warning to more formal disciplinary actions such as a suspension without pay or removal.

Additionally, OCR's standard operating process for the redress of allegations of discrimination provides for a prompt, fair, and impartial review and adjudication of any allegation of discrimination, further demonstrating the Agency's commitment to equal employment opportunity principles and practices in all of our management decisions and personnel practices.

f. No FEAR Act Training Plans (5 C.F.R. § 724.302 (a)(9))

In FY 2011, OCR began a revamp of its entire web presence, to include a redesign of the NoFEAR Act online training. The redesigned training, planned for roll out beginning in April 2012, will be more user friendly, interactive, and provide a more meaningful learning experience. The Director of OCR has convened a committee of senior Diversity managers to supervise the training redesign and roll out with the intent to surpass the Agency's 2010 NoFEAR training completion rate of 95%.

IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))

At the conclusion of FY 2011, the Agency saw a 12% decrease in number of new complaints filed and a 5% decrease in the number of complainants compared to FY 2010. The bases of alleged discrimination most often raised were: (1) retaliation; (2) sex; and (3) disability. Additionally, EPA saw an overall 40% decrease in the number of complaints filed on the basis of race and a 37% decrease in the number of complaints filed on the basis of age between FY 2010 and FY 2011.

The 64 EEO complaints filed at EPA in FY 2011 contained 35 allegations of retaliation, 28 allegations of sex discrimination, and 24 allegations of age discrimination. The FY 2011 EEO complaint activity at EPA showed a decrease in almost every basis alleged as compared to FY 2010. The only bases alleged more frequently in FY 2011 as compared to FY 2010 were complaints alleging discrimination based on disability discrimination and complaints alleging Equal Pay Act violation. Overall, the data does not show any significant increase in complaints filed on these or any bases, when considering the aggregate size of the workforce.

EPA completed investigations for complaints pending during FY 2011 with an average processing time of 239 days, down from 258 days in FY 2010. EPA's average processing time for all complaint closures increased from 518 days in FY 2010, to 697 days in FY 2011, above the Government-wide average of 404 days, in FY 2010. The Agency found that, on average, complaints where a hearing was requested took 945 days to reach closure. Complaints where settlement was deemed appropriate took an average of 409 days to reach closure and complaints where a Final Agency Decision (FAD) was issued took, on average, 672 days to reach closure. The increase in the number of days can be attributed to a number of factors. FY 2011 was characterized by significant change and transition in the Office of Civil Rights, Employment Complaints Resolution Staff (ECRS). The ECRS lost its Assistant Director and its most senior specialist. The staff was without an Assistant Director for the entire year.

Nevertheless, OCR focused heavily on system improvements during FY 2011. During the reporting period, we initiated an Interagency Agreement (IAG) with the United States Postal Service (USPS). Also during the reporting period, we procured and implemented the government-wide standard complaint tracking system, iComplaints. We have begun transferring all of the Agency investigative functions to USPS, in order to streamline our investigative activities and ultimately conform to regulatory timeframes. We anticipate that these two logistical improvements will collaboratively enhance the productivity and efficiency of the Agency EEO program. While we are aware that our processing times went up during FY 2011, we are confident that we will see a marked decrease in these numbers during FY 2012.

V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(2)(ii))

During FY 2011, the Agency was required to reimburse the Judgment Fund \$225,000 in relation to the settlement of a civil case.

VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))

In an effort to improve our civil rights programs, EPA hired an independent consulting firm during FY 2010 to conduct a comprehensive review and program evaluation to determine how effectively OCR is meeting its mission and regulatory mandates. This study was complete in March 2011. Administrator Jackson convened a Deputies Council, consisting of the Agencies most senior management officials, to review all of the recommendations resulting from that study. During FY 2011, OCR took steps to implement a number of the improvements suggested by the Deputies Council including standardizing templates, developing standard operating

procedures, changing investigation contractors, procuring a new tracking system, hiring new staff and managers and improving accountability for processing investigations and FADs.

In FY 2011, OCR's ECRS attended quarterly technical training working cooperatively with EPA's Office of General Counsel, related to writing acceptance and dismissal letters, analyzing hostile work environment claims and conducting thorough investigations.

OCR also continues to post all No FEAR statistics on the OCR website on a quarterly basis. In addition, have members of the ECRS make presentations during the monthly new hire orientations to ensure that all new employees are notified of the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.

ACCOMPLISHMENTS UPDATE

The EPA has worked towards meeting the goals of this important legislation as indicated in the actions highlighted below.

1) iComplaints

In FY 2011, OCR procured and implemented a new EEO complaint tracking system, iComplaints. With its industry-leading technical and functional superiority, this web-based application delivers a comprehensive range of capabilities for inputting, processing, tracking, managing, and reporting on complaint cases. iComplaints includes a number of critical features for tracking and managing EEO complaints and cases. Its robust set of business rules ensures compliance with EEOC MD-110, EEOC reporting requirements, and 29 CFR 1614.

2) Interagency Agreement with the U.S. Postal Service

During the reporting period, OCR implemented an Interagency Agreement with the United States Postal Service (USPS) for EEO investigation and FAD preparation services. In FY 2011, OCR began the process of eliminating investigative contractors based on detailed assessments of overall past performance. The Agency investigative caseload from the released contractors was then transitioned to USPS. As the only EEO Shared Service Center in the federal sector, the USPS is uniquely qualified to offer a variety of professional EEO complaint processing services. Ranked within the top three in all EEO processing categories within the Federal sector, we are confident that this new partnership will significantly improve the quality and timeliness of EEO investigations.

3) Policy Development

Anti Harassment Policy- During FY 2011, the Agency implemented a new anti harassment policy to prevent harassment, either sexual or non-sexual, in the workplace and to correct harassing conduct before it becomes severe or pervasive.

2011 EEO Policy- The Administrator reaffirmed her commitment to creating a diverse workplace free from discrimination in her 2011 EEO policy. The policy clearly expressed that the EPA will not tolerate discrimination based on race; color; national origin; religion; age; disability; sex, including pregnancy and gender identity/expression; protected genetic information; sexual orientation; status as a parent or retaliation based on prior protected EEO activity.

4) Diversity, Special Emphasis, and Special Observance Programs

In an effort to reduce complaints and reinforce a workplace culture free of discrimination, EPA has continued to maintain strong programs in FY 2011 for the employment, advancement, and retention of a diverse Federal workforce. These programs included initiatives to: strengthen partnerships with academic institutions and special emphasis community groups; outreach and recruitment events to provide potential civil service recruits with information on locating and applying for EPA jobs; and encouraging the use of various recruitment flexibilities to tap into diverse talent pools. EPA also regularly conducted special observance programs at headquarters and regional offices designed to provide information and foster appreciation for individuals of different cultures and experiences.

EPA completed and submitted its FY 2011 Management Directive 715 report to the EEOC in a timely manner, and the agency is working aggressively to continue to build and sustain a Model EEO Program.

APPENDIX 1

Equal Employment Opportunity Data Posted Pursuant to Title III of the No FEAR Act

Data as of September 31 - End of Fiscal Year 2011

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
Number of Complaints Filed	77	65	81	78	73	64
Number of Complainants	60	58	73	71	64	61
Repeat Filers	12	6	8	8	9	3
Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	35	34	41	33	40	24
Color	4	9	14	9	6	1
Religion	0	2	2	1	5	2
Reprisal	0	37	42	35	47	35
Sex	28	21	30	37	29	28
PDA	0	0	0	0	0	0
National Origin	14	8	10	6	15	10
Equal Pay Act	0	1	0	0	0	2
Age	30	28	29	38	30	19
Disability	24	19	16	25	22	24
Genetics	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0

Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2011
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2006	2007	2008	2009	2010	
Appointment/Hire	1	0	0	0	2	0
Assignment of Duties	7	5	13	7	17	9
Awards	6	1	4	2	7	1
Conversion to Full-time	0	0	1	0	0	0
Disciplinary Action						
Demotion	1	0	1	0	0	0
Reprimand	3	3	1	3	2	1
Suspension	3	3	0	2	2	3
Removal	2	0	0	1	0	1
Other	2	0	0	0	4	1
Duty Hours	0	0	0	0	1	3
Evaluation Appraisal	15	10	17	9	15	6
Examination/Test	0	0	0	0	0	1
Harassment						
Non-Sexual	39	30	31	36	35	30
Sexual	1	0	1	0	1	1
Medical Examination	1	0	0	0	0	0
Pay (Including Overtime)	3	4	3	2	5	2
Promotion/Non-Selection	25	22	28	24	24	15

Reassignment						
Denied	6	3	1	0	4	2
Directed	2	2	4	2	7	1
Reasonable Accommodation	12	7	3	6	1	5
Reinstatement	0	0	0	0	0	0
Retirement	1	0	0	1	0	0
Termination	1	4	4	7	4	7
Terms/Conditions of Employment	11	12	10	8	16	6
Time and Attendance	12	8	13	7	7	2
Training	6	2	8	7	7	2
Other	0	1	0	0	0	0
Processing Time	Comparative Data					
	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
Complaints pending during fiscal year						
Average number of days in investigation	206.38	240.04	228.42	218.22	223.80	248.14
Average number of days in final action	240.77	214.09	269.59	168.06	157.83	313.57
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	227.85	254.97	232.16	213.42	200.49	258.00

Average number of days in final action	89.86	147.28				123.12	112.18	17.36	95.00				
Complaint pending during fiscal year where hearing was not requested													
Average number of days in investigation	178.04	218.40				221.95	224.76	240.38	203.25				
Average number of days in final action	354.97	288.62				363.32	196.00	304.89	436.60				
Complaints Dismissed by Agency		Comparative Data											
		Previous Fiscal Year Data										2011	
		2006		2007		2008		2009		2010			
Total Complaints Dismissed by Agency		23		17		12		12		13		4	
Average days pending prior to dismissal		246		238		394		130		182		330	
Complaints Withdrawn by Complainants													
Total Complaints Withdrawn by Complainants		4		9		8		3		2		2	
Total Final Agency Actions Finding Discrimination		Comparative Data											
		Previous Fiscal Year Data										2011	
		2006		2007		2008		2009		2010			
		#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings		0		0		0		0		0		0	
Without Hearing		0	0	0	0	0	0	0	0	0	0	0	0
With Hearing		0	0	0	0	0	0	0	0	0	0	0	0
Findings of Discrimination Rendered by Basis		Comparative Data											
		Previous Fiscal Year Data										2011	

<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0

Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings of Discrimination Rendered by Issue	Comparative Data											
	Previous Fiscal Year Data										2011	
	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0

Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0

Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0

Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0

Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
Pending Complaints Filed in Previous Fiscal Years by Status					Comparative Data							
					Previous Fiscal Year Data					2011		
					2006	2007	2008	2009	2010			
Total complaints from previous Fiscal Years					0	20	23	55	55	66		
Total Complainants					0	19	21	49	49	52		
Number complaints pending												
Investigation					0	1	1	2	0	5		
ROI issued, pending Complainant's action					0	0	0	0	0	2		
Hearing					0	0	1	4	1	7		
Final Agency Action					10	4	17	24	16	13		
Appeal with EEOC Office of Federal Operations					0	0	0	0	0	0		

Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
Pending Complaints Where Investigations Exceed Required Time Frames	5	19	14	18	38	40

APPENDIX 2

Anti-Harassment Policy

MEMORANDUM

FROM: Administrator Lisa P. Jackson

TO: All EPA Employees

As a matter of policy, harassment of any kind will not be tolerated at the U.S. Environmental Protection Agency. When harassment is directed at an individual because of a lawfully protected basis and is sufficiently severe or pervasive that it creates a hostile work environment or takes the form of a tangible employment action, it is unlawful. It is EPA policy to ensure that appropriate measures are implemented to prevent harassment, either sexual or nonsexual, in the workplace and to correct harassing conduct before it becomes severe or pervasive. EPA policy also strictly prohibits any retaliation against an employee who reports a concern about workplace harassment or assists in any inquiry about such a report.

For the purposes of this policy, unlawful harassment is defined as any unwelcome verbal or physical conduct based on race; color; sex, including pregnancy and gender identity/expression; national origin; religion; age; prior protected EEO activity; protected genetic information; sexual orientation or status as a parent when:

- a) the behavior can reasonably be considered to adversely affect the work environment; or
- b) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Sexual harassment can be either a form of harassment based on a person's sex that need not involve conduct of a sexual nature or harassment involving any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

- a. submission to such conduct is made explicitly or implicitly a term or condition of an employee's job, pay or career;
- b. submission to or rejection of such conduct by an employee is used as a basis for career or employment decisions affecting that employee; or
- c. such conduct has the purpose or effect of unreasonably interfering with an employee's performance or creates an intimidating, hostile or offensive environment.

Sexual harassment need not involve members of the opposite sex and can be perpetrated by and against members of either sex.

Examples of workplace harassment include:

- Oral or written communications that contain offensive name calling, jokes, slurs, negative stereotyping, hostility or threats. This includes comments or jokes that are distasteful or targeted at individuals or members of the lawfully protected bases set forth above.
- Nonverbal conduct, such as staring, leering and giving inappropriate gifts.
- Physical conduct, such as assault or unwanted touching.
- Visual images, such as derogatory or offensive pictures, cartoons or drawings. Such prohibited images include those in hard copy or electronic form.

The EPA does not permit harassment by or against anyone in the workplace. This includes any employee, applicant for EPA employment, grantee, contractor, Senior Environmental Employment enrollee or Federal Advisory Committee Act member. Workplace harassment should be reported immediately by the affected person to a first-line supervisor, a higher-level supervisor or manager in her or his chain of command, the Office of Inspector General or Labor and Employee Relations staff, as appropriate. Supervisors, in consultation with their human resources or legal offices, must conduct prompt, thorough and impartial inquiries. Please consult the anti-harassment procedures accompanying this policy.

If necessary and to the extent possible, measures must be taken to safeguard the anonymity of employees who file complaints. If management, in consultation with legal counsel, determines that harassment has occurred, it must be corrected as soon as possible. Harassing conduct by EPA employees need not rise to the level of unlawful harassment for it to constitute misconduct subject to corrective or disciplinary action.

In addition, EPA employees or applicants for employment may also use the complaint process established by the Equal Employment Opportunity Commission to file a complaint of harassment based on race, color, sex, religion, national origin, age, disability, prior protected EEO activity and protected genetic information for individual redress. To invoke that process, EPA employees and applicants must contact an EEO counselor within 45 days of an alleged incident of harassment. Reporting harassment to a supervisor in accordance with the previous paragraph does not satisfy this requirement and does not invoke the EEOC's process. EPA employees or applicants for employment may also report harassment based on sexual orientation and status as a parent to the EPA Office of Civil Rights.

Should you have any questions or need additional information about this policy, please contact the EPA Office of Human Resources at (202) 564-4600 or the EPA Office of Civil Rights at (202) 564-7272.

APPENDIX 3

2009 Equal Employment Opportunity (EEO) Policy Statement

Memorandum

FROM: Administrator Lisa P. Jackson

TO: All EPA Employees

I believe that there is no higher calling than public service, and that there is no more important work in public service than the pursuit of civil equity. Our credibility and efficacy in the area of EEO is inextricably linked to our integrity and impartiality. In a sense, our capacity to protect human health and the natural environment depends on the protection of the workforce and the vindication of workforce rights, and we are duty bound to protect the rights of all employees, without bias or favoritism. To these ends, EPA must always strive to foster a work environment where the principles of EEO are willingly embraced and diversity is valued and understood. Maintaining a world class public service workforce requires strategic efforts to tap into the intellectual capital of our global economy. The 2000 Census shows major shifts in the demographic profile of the population we serve and the labor force from which we recruit. It is predicted that within the next 30 years, no single racial or ethnic group will comprise the majority of the nation's population. Clearly, changes associated with our increasingly pluralistic society bring concurrent opportunities and challenges.

Guiding Principle

EPA will be fully committed to the principles of EEO, equity, and diversity in the workplace and adhere to the policy of ensuring equal employment opportunity, prohibiting unlawful discrimination, retaliation and harassment in all its forms, and promoting diversity and inclusiveness.

Definition(s)

Equal Employment Opportunity (EEO) refers to the set of laws and policies that mandate all individuals' rights to equal opportunity in the workplace. The unequivocal protection of these fundamental civil rights in the workplace is the cornerstone of our American democracy and the foundation upon which diversity can thrive.

Diversity refers to the human qualities that are different from our own and those of groups to which we belong; but are manifested in other individuals and groups. Dimensions of diversity include but are not limited to: age, ethnicity, gender, physical abilities/qualities, race, sexual orientation, educational background, geographic location, socioeconomic status, marital status, military experience, religious beliefs, political beliefs and ideologies.

Diversity management, in contrast, is a proactive and appropriate response to the changing profile of our world. It is imperative that we recognize that in order to be relevant in the global economy of the 21st century, the Agency must recruit, develop, and retain a world class

workforce that reflects the many dimensions of the society it serves. Based on the empirical correlation between workforce diversity and high performing organizations, a strong business case can be made for diversity.

Affirmation

I wish to affirm that no employee will be denied equal opportunity because of race, color, religion, sex, national origin, age, disability, status as a parent, sexual orientation, marital status, protected genetic status or prior EEO activity (reprisal). Individually, and collectively as an Agency, we must:

- ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit. Each employee will be regarded fairly and treated with dignity and respect.
- maintain a work environment free from unlawful discrimination, reprisal and harassment. To do otherwise is simply not an option. It is totally unacceptable and will not be tolerated. Managers and supervisors will continually be held accountable for their responsibility to identify and correct discriminatory policies, practices and behaviors and for taking prompt and appropriate action to ensure that the work environment is free of unlawful discrimination, reprisal and/or harassment.
- provide reasonable accommodations for qualified applicants and employees with disabilities.
- seek to resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal. Every employee is encouraged to use the Alternative Dispute Resolution (ADR) process as a valuable tool in resolving workplace disputes and complaints of discrimination; and when appropriate, managers and supervisors shall fully participate in the ADR process.
- educate managers, supervisors, and employees of their rights and responsibilities under Federal law. Equal opportunity is good business and it is the law. I expect all managers, supervisors, and employees to carry out their duties accordingly.

Conclusion

I expect EPA to continue to maintain policies that allow all employees to work in an environment that is free from discrimination, reprisal, and harassment.

It is my vision that EEO and diversity management are separate but symbiotic functions essential to the success of the EPA as a high performing organization. Together, these functions create synergy and transform our organization into one in which the whole is greater than the sum of singular entities. We are strengthened by our diversity, and empowered by our commitment to effective EEO.

APPENDIX 4

MEMORANDUM

SUBJECT: 2010 Equal Employment Opportunity Policy Statement

TO: All Employees

I am reaffirming my commitment to the principles of equal employment opportunity and diversity in the workplace for the U.S. Environmental Protection Agency's employees and job applicants. The EPA must continue to attract, develop, and retain a highly skilled, diverse work force to meet the demands of our mission to protect human health and the natural environment. The EPA must be fully committed to promoting and maintaining a workplace that ensures equality of opportunity for everyone, regardless of her or his race, color, religion, sex, national origin, age, disability, status as a parent, sexual orientation, protected genetic information, prior EEO activity and marital status.

Our managers and supervisors must lead by example to ensure the workplace is free from discrimination, hostility, intimidation, reprisal and harassment. We all have a role to play, and each of us must be committed to treating one another with dignity, respect and professionalism. I ask you to help me create a work environment that embraces our individual differences and gives everyone full consideration for employment opportunities, including hiring, promotions and training, regardless of his or her protected status.

Our vision of One EPA can be realized only if we respect and honor the differences that every employee brings from her or his background. I am confident that, as we move forward, all of us will work toward protecting and advancing the principles of EEO.

I offer my sincerest thanks to all of you for your dedication to the EPA and for the excellent work you do every day to protect the American people and our environment. None of it would be possible without the diversity of experiences and ideas that each of you brings to our agency.

/s/

Lisa P. Jackson

Administrator

APPENDIX 5

2011 Equal Employment Opportunity (EEO) Policy Statement

Memorandum

FROM: Administrator Lisa P. Jackson

TO: All EPA Employees

I am proud to reaffirm the U.S. Environmental Protection Agency's commitment to equal employment opportunity and diversity in the workplace. Given the many challenging tasks that lie ahead of the EPA, each of us must embrace her or his personal responsibility to maintain a professional and respectful work environment.

The EPA will not tolerate discrimination based on race; color; national origin; religion; age; disability; sex, including pregnancy and gender identity/expression; protected genetic information; sexual orientation; status as a parent or retaliation based on prior protected EEO activity. The EPA also will not tolerate any type of harassment, either sexual or nonsexual, of any employee or applicant for employment. Employment decisions, including those related to hiring, training or awards, must be made in accordance with the merit system principles contained in 5 U.S.C. § 2301.

We have a world-class work force. As Administrator, I expect our management team to provide first class leadership in support of EEO and diversity. As part of their leadership responsibilities, managers must act promptly both to prevent and to address any discriminatory conduct in the workplace.

I also expect all EPA managers and employees to treat each other and the public with dignity and respect, to report discriminatory conduct and to prevent all types of discrimination, including harassment of any kind. I urge all EPA managers and employees to cultivate a positive, inclusive work environment that is free from unlawful discrimination.

Any employee, manager or applicant for employment who believes he or she has been subjected to discrimination may exercise her or his rights and seek redress by contacting the EPA's Office of Civil Rights or an EEO officer at the regional or laboratory level. Managers are reminded that their participation in agency-approved alternative-dispute-resolution efforts designed to resolve employee EEO complaints is required, absent extraordinary circumstances as determined by the Office of Civil Rights' director or a designee. All EPA managers and employees should also be aware that disciplinary action may be taken against anyone found by the EPA to have engaged in unlawful discrimination.

A professional, productive and efficient work force is essential to the EPA's ability to protect human health and the environment. Unlawful discrimination in the workplace, including retaliation and harassment, undermines achievement of our agency's mission.

Each of us is privileged to serve the American people, and every day offers a new opportunity to contribute our very best efforts. Working together as One EPA, we can ensure a positive, respectful work environment that strengthens our vibrant, diverse work force.